

Senate File 357 - Introduced

SENATE FILE _____
BY COMMITTEE ON LABOR AND
BUSINESS RELATIONS

(SUCCESSOR TO SSB 1071)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the duties of the labor commissioner pursuant
2 to wage payment collection and child labor law enforcement,
3 and providing penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1409SV 83
6 ak/rj/8

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1 1 DIVISION I
1 2 WAGE PAYMENT COLLECTION PENALTIES
1 3 Section 1. Section 91A.12, subsection 1, Code 2009, is
1 4 amended to read as follows:
1 5 1. Any employer who violates the provisions of this
1 6 chapter or the rules promulgated under it shall be subject to
1 7 a civil money penalty of not more than ~~one~~ five hundred
1 8 dollars per pay period for each violation. The commissioner
1 9 may recover such civil money penalty according to the
1 10 provisions of subsections 2 to 5. Any civil money penalty
1 11 recovered shall be deposited in the general fund of the state.
1 12 DIVISION II
1 13 CHILD LABOR VIOLATION PENALTIES
1 14 Sec. 2. Section 92.11, subsection 2, paragraph c, Code
1 15 2009, is amended to read as follows:
1 16 c. ~~In For~~ cases where ~~none of the above-named~~ proofs
1 17 designated in paragraphs "a" and "b" are not obtainable,
1 18 documentation issued by the federal government that is deemed
1 19 by the commissioner to be sufficient evidence of age, or an
1 20 affidavit signed by a licensed a certificate, signed by the
1 21 local medical inspector of schools, or if there be no such
1 22 inspector, then by a physician appointed by the local board of
1 23 education, certifying that in the inspector's or physician's
1 24 opinion the applicant for the work permit is fourteen years of
1 25 age or more.
1 26 Sec. 3. Section 92.19, Code 2009, is amended to read as
1 27 follows:
1 28 92.19 VIOLATIONS BY PARENT OR GUARDIAN.
1 29 1. ~~No A~~ parent, guardian, or other person, having under
1 30 the parent's, guardian's, or other person's control any person
1 31 under eighteen years of age, shall ~~willfully not~~ permit said
1 32 person to work or be employed in violation of the provisions
1 33 of this chapter.
1 34 2. ~~No A~~ person shall ~~willfully not~~ make, certify to, or
1 35 cause to be made or certified any statement, certificate, or
2 1 other paper for the purpose of procuring the employment of any
2 2 person in violation of this chapter.
2 3 3. ~~No A~~ person shall ~~not~~ make, file, execute, or deliver
2 4 any statement, certificate, or other paper containing false
2 5 statements for the purpose of procuring employment of any
2 6 person in violation of this chapter.
2 7 4. ~~No A~~ person, firm, or corporation, or any agent thereof
2 8 shall ~~willfully not~~ conceal or permit a person to be employed
2 9 in violation of this chapter.
2 10 5. ~~No A~~ person, firm, or corporation shall ~~not~~ refuse to
2 11 allow any authorized persons to inspect the place of business
2 12 or provide information necessary to the enforcement of this
2 13 chapter.
2 14 Sec. 4. Section 92.20, Code 2009, is amended to read as

2 15 follows:

2 16 92.20 PENALTY.

2 17 1. The parent, guardian, or person in charge of any
2 18 migratory worker or of any child who ~~shall engage~~ engages in
2 19 any street occupation in violation of any of the provisions of
2 20 this chapter shall be guilty of a ~~simple~~ serious misdemeanor.

2 21 2. Any person who furnishes or sells to any minor child
2 22 any article of any description ~~when~~ which the person knows or
2 23 should have known ~~that said the~~ the minor intends to sell in
2 24 violation of the provisions of this chapter, shall be guilty
2 25 of a ~~simple~~ serious misdemeanor.

2 26 3. Any other violation of this chapter for which a penalty
2 27 is not specifically provided, ~~shall be guilty of~~ constitutes a
2 28 ~~simple~~ serious misdemeanor.

2 29 4. Every day during which any violation of this chapter
2 30 continues ~~shall constitute~~ constitutes a separate and distinct
2 31 offense, and the employment of any person in violation of this
2 32 chapter ~~shall~~, with respect to each person so employed,
2 33 ~~constitute~~ constitutes a separate and distinct offense.

2 34 Sec. 5. Section 92.21, Code 2009, is amended to read as
2 35 follows:

3 1 92.21 RULES AND ORDERS OF LABOR COMMISSIONER.

3 2 1. The labor commissioner may adopt rules to more
3 3 specifically define the occupations and equipment permitted or
3 4 prohibited in this chapter, to determine occupations for which
3 5 work permits are required, and to issue general and special
3 6 orders prohibiting or allowing the employment of persons under
3 7 eighteen years of age in any place of employment defined in
3 8 this chapter as hazardous to the health, safety, and welfare
3 9 of the persons.

3 10 2. The labor commissioner shall adopt rules specifically
3 11 defining the civil penalty amount to be assessed for
3 12 violations of this chapter.

3 13 Sec. 6. Section 92.22, Code 2009, is amended to read as
3 14 follows:

3 15 92.22 LABOR COMMISSIONER TO ENFORCE.

3 16 1. The labor commissioner shall enforce this chapter. An
3 17 employer who violates this chapter or the rules adopted
3 18 pursuant to this chapter is subject to a civil penalty of not
3 19 more than ten thousand dollars for each violation.

3 20 2. The commissioner shall notify the employer of a
3 21 proposed civil penalty by service in the same manner as an
3 22 original notice or by certified mail. If, within fifteen
3 23 working days from the receipt of the notice, the employer
3 24 fails to file a notice of contest in accordance with rules
3 25 adopted by the commissioner pursuant to chapter 17A, the
3 26 penalty, as proposed, shall be deemed final agency action for
3 27 purposes of judicial review.

3 28 3. The commissioner shall notify the department of revenue
3 29 upon final agency action regarding the assessment of a penalty
3 30 against an employer. Interest shall be calculated from the
3 31 date of final agency action.

3 32 4. Judicial review of final agency action pursuant to this
3 33 section may be sought in accordance with the terms of section
3 34 17A.19. If no petition for judicial review is filed within
3 35 sixty days after service of the final agency action of the

4 1 commissioner, the commissioner's findings of fact and final
4 2 agency action shall be conclusive in connection with any
4 3 petition for enforcement which is filed by the commissioner
4 4 after the expiration of the sixty-day period. In any such
4 5 case, the clerk of court, unless otherwise ordered by the
4 6 court, shall forthwith enter a decree enforcing the final
4 7 agency action and shall transmit a copy of the decree to the
4 8 commissioner and the employer named in the petition.

4 9 5. Any penalties recovered pursuant to this section shall
4 10 be remitted by the commissioner to the treasurer of state for
4 11 deposit in the general fund of the state.

4 12 6. Mayors and police officers, sheriffs, school
4 13 superintendents, and school truant and attendance officers,
4 14 within their several jurisdictions, shall ~~co-operate~~ cooperate
4 15 in the enforcement of this chapter and furnish the
4 16 commissioner and the commissioner's designees with all
4 17 information coming to their knowledge regarding violations of
4 18 this chapter. All such officers and any person authorized in
4 19 writing by a court of record shall have the authority to
4 20 enter, for the purpose of investigation, any of the
4 21 establishments and places mentioned in this chapter and to
4 22 freely question any person therein as to any violations of
4 23 this chapter.

4 24 7. County attorneys shall investigate all complaints made
4 25 to them of violations of this chapter, and prosecute all such

4 26 cases of violation within their respective counties.

4 27 EXPLANATION

4 28 Division I of this bill increases the monetary civil
4 29 penalty for a violation of the wage payment collection law
4 30 from \$100 to \$500 for each violation. The bill also specifies
4 31 that the monetary civil penalty shall be assessed per pay
4 32 period for each violation.

4 33 Division II of the bill makes several changes relating to
4 34 child labor laws in Code chapter 92. In Code section
4 35 92.11(2)(c), the bill allows the labor commissioner to
5 1 consider federal documents for a child to verify the child's
5 2 age in order to obtain a child labor permit. The bill strikes
5 3 references to "local medical inspector of schools" as a source
5 4 for verifying a child's age. In Code section 92.19, the
5 5 standard of liability for a violation is amended from willful
5 6 to strict liability.

5 7 In Code section 92.21, the commissioner is authorized to
5 8 define civil penalties for violations of Code chapter 92.

5 9 The penalties for a criminal child labor violation are
5 10 increased from a simple misdemeanor to a serious misdemeanor
5 11 in Code section 92.20. A serious misdemeanor is punishable by
5 12 confinement for no more than one year and a fine of at least
5 13 \$315 but not more than \$1,875.

5 14 In Code section 92.22, the bill authorizes the commissioner
5 15 to assess a civil penalty of up to \$10,000 for each violation
5 16 of Code chapter 92 or any rules adopted pursuant to the
5 17 chapter. The bill also establishes administrative procedures,
5 18 including notice, in accordance with Code chapter 17A. The
5 19 commissioner's decision shall be considered final agency
5 20 action for purposes of judicial review. The commissioner must
5 21 notify the department of revenue of any penalties assessed
5 22 against the employer. Interest is calculated from the date of
5 23 the final penalty determination. Judicial review of the final
5 24 agency action may be sought following procedures according to
5 25 Code section 17A.19.

5 26 Any penalties that the commissioner receives under Code
5 27 chapter 92 shall be remitted by the commissioner for deposit
5 28 in the general fund of the state.

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